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10/663,498	09/16/2003	James Scott Anderson	453.1	2443
7590 James Scott Anderson 1214 Hillwood Court SE Atlanta, GA 30316-2660		08/07/2007	EXAMINER SILBERMANN, JOANNE	
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Please find below and/or attached an Office communication concerning this application or proceeding.

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/663,498  
Filing Date: September 16, 2003  
Appellant(s): ANDERSON, JAMES SCOTT

**MAILED**

AUG 07 2007

**GROUP 3600**

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J. Scott Anderson  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 12 April 2007 appealing from the Office action mailed 20 November 2006.

**(1) Real Party in Interest**

A statement identifying by name the real party in interest is contained in the brief.

**(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

**(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

**(4) Status of Amendments After Final**

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

**(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

6,604,789	DOWNING	8-2003
3,526,050	WELLER	9-1970

5,727,818                    SCHMEIDA                    3-1998

**(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1, 10-13, 16 and 23-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Downing, US #6,604,789.

Downing teaches writing surface 35 and semi-rigid core 16 supporting the writing surface (Figure 3). The core includes slot 20 sized to releasably receive an edge upon which it is mounted. The orientation of the slot is generally parallel to the writing surface. The core (and writing surface) may correspond with "any cross-sectional shape" or armrest. Various types of indicia may be applied to the surface. If such indicia are not removed, they are considered permanent.

Regarding the location of the writing surface, the edge and the open container are not part of the claimed invention. Such language is considered to be intended use only.

Regarding claim 10, one side of the core (facing the left side of the seat, for example) provides a front writing surface, and the other side (facing the right side) provides a rear writing surface.

Regarding claim 11, Downing does not teach a plurality of slots, however this is considered to be a duplication of known parts. It has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

Downing does not teach a specific material to be used for the writing surface, however vinyl is old and well known. It would have been obvious to a person having

ordinary skill in the art to utilize vinyl as a suitable material if it is desired to place water-soluble indicia on the display.

Downing does not teach the specific method steps of the instant claims, however such methods would have been obvious to one of ordinary skill in the art given the structure of Downing.

Claims 34-38, 40-47 and 49-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Weller, US #3,526,050 in view of Schmeida, US #5,727,818.

Weller teaches an assembly including generally planar surfaces 14, 15 (Figures 1 and 2) for receiving indicia, semi-rigid core 10 supporting the writing surface and having a thickness and top and bottom sides, and slot 16 (Figure 2) extending upward from the bottom side to a depth terminating near the lower boundary of the writing surface such that a majority of the writing surface extends above the slot (Figure 1).

Weller teaches surfaces 14 and 15 for receiving indicia but does not specifically describe writing surfaces. This however is well known in the art, as shown by Schmeida. Schmeida teaches a dry-erase (whiteboard) writing surface for applying indicia to a substrate and includes releasably adhered transparent cover 16 (Figure 1). It would have been obvious to a person having ordinary skill in the art to utilize the surface shown in Schmeida to provide indicia on the core of Weller so that indicia/advertisement may be provided on the core. If the indicia are not removed, it is considered to be permanent.

The front and rear surfaces face opposite directions.

Weller and Schmeida do not teach using vinyl for the writing surface, however vinyl is old and well known. It would have been obvious to a person having ordinary skill in the art to utilize vinyl as a suitable material if it is desired to place water-soluble indicia on the display.

Regarding the location of the writing surface in relation to the edge of the container, the edge and the container are not part of the claimed invention. Such language is considered to be intended use only.

Regarding claim 42, Weller and Schmeida do not teach a plurality of slots, however this is considered to be a duplication of known parts. It has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

#### **(10) Response to Argument**

##### **Claims 1 and 16**

Applicant argues that Downing does not teach a writing surface (or the step of providing a writing surface) because the words "writing surface" are not present in the reference. As stated in the rejection, the surface of Downing that includes the indicia is considered to be the writing surface. As Applicant now argues (page 10 of Appeal Brief), Applicant is not claiming *any surface*. However, the reference does not teach just "any surface" but a surface that has indicia thereon. Any physical surface may not meet this limitation, but the reference teaches a surface including indicia, and this is considered to be a writing surface. The designation of a surface as a "writing" surface does not impart more structure to this surface.

**Claim 10**

Applicant argues (page 11) that Downing does not teach a core or slot (even though these elements are recited in claim 1). Applicant does not provide any arguments as to why the core 16 and slot 20 of Downing do not meet this recitation.

**Claims 23-26**

Applicant further states that the Downing reference does not teach or suggest a writing surface, core or slot. No further arguments are made.

**Claims 34-38, 40-42**

Applicant argues that Weller does not have a separate core element. As in the rejection, Weller teaches core 10 and slot 16 and Schmeida teaches a writing surface 14 (Figure 1). Applicant states that a slot cannot be cylindrical, however this limitation is not set forth in the claim.

**Claims 44-47, 49-51**

Regarding the step of mounting the writing surface to the core, this is suggested by Schmeida (Background of the Invention). This states that the label of the invention is applied to an article for identification purposes. Weller teaches a core and a slot as discussed above.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

Art Unit: 3611

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

  
Joanne Silbermann

Conferees:

Lesley Morris 

Meredith Petrvick 